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CONCORD, N.H.

July 27, 1953

The Honorable Hugh Gregg  
Governor of New Hampshire  
Concord, New Hampshire

Dear Governor Gregg:

You have inquired whether nomination for election to the United States Senate in 1954 to fill out the unexpired term of the late Senator Tobey is by direct primary or by party caucus. You are respectfully advised that it is my opinion that the direct primary law applies and that candidates for this elective office shall be nominated in accordance with R. L., c. 33.

S. 3 of c. 37 of the Revised Laws provides that in case of a vacancy in the office of United States Senator, you may fill the same by appointment until the next general election, when said vacancy shall be filled. This does not call for a "special election" within the restrictive provisions of s. 2 of c. 33, which provides that the chapter (direct primary) shall not apply to special elections to fill vacancies.

Thus, declarations of candidacy for this office, together with \$100. filing fee, or 200 nominating petitions, must be filed in accordance with the law not more than sixty days nor less than forty-six days before the date of the primary. Only in the event that no declaration is filed by any candidate for the office and/or no petitions in behalf of a candidate for this nomination, would the nomination be made by the party committee of the state.

Respectfully,

Louis C. Wyman  
Attorney General

W/d